THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.27077 of 1997
Date: 07-02-2007

Between:
Banda Krishnaiah and 10 others

Petitioners

And

The District Collector,
Mahabubnagar District,
Mahabubnagar and another.

Respondents

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THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.27077 of 1997

ORDER:

1. This writ petition has been instituted questioning the orders passed on 26-08-1997 by the second respondent-Mandal Revenue Officer, Hanwada, Mahabubnagar District, through which he has cancelled the pattas granted in favour of the writ petitioners earlier. The reason assigned for cancellation of the pattas is that some of the assigned lands are not cultivated by the writ petitioners. It is not in dispute that the writ petitioners, being otherwise eligible, have been granted Laoni pattas over an extent of Ac.18.20 guntas of land situated in Survey No.77 of Chikarlapalli village in Hanwada Mandal of Mahabubnagar District. The counter affidavit filed in this case reveals by way of a tabulated statement as to the total extent of land assigned in favour of each of the writ petitioners, the extent of land being cultivated by them and also the extent of land over which Sendhi trees are said to be existing. It will be useful to extract the said tabulated statement herein below:

Sl. No.	Name of the assignee with Father's Name	Sy.No.	Extent assigned Ac. Gts.	Extent being cultivated Ac. Gts.	Extent in which Sendhi trees existing Ac. Gts.
1.	Sri Telgu Thimmanna s/o.Rajanna	77/1	0-30	0-08	0-22 Gts
2.	".Venkataiah s/o.Balappa	77/1	1-00	0.25	0.15 Gts

Contd……

3.	Hanmaiah s/o.Chennaiah	77/1	1-00	0-12	0.28
4.	Kavali Ramulu s/o.Shankaraiah	77/1	1-00	0-10	0-30
5.	Kavali Pentaiah s/o.Chennaiah	77/1	1-00	0-22	0-18
6.	Kavali Ramulu s/o.Yerra Balappa	77/1	1-00	0-18	0-22
7.	Kavali Ramulu s/o.Siddappa	77/1	1-00	0-10	0-30
8.	C.Krishnaiah s/o.Timmanna	77/1	1-00	0-06	0-34
9.	Guddi Venkataiah s/o.Krishnaiah	77/1	1-00	0-05	0-35
10.	Smt.Padmamma w/o.Pedda Mallaiah	77/1	1-10	0-17	0-33
11.	Smt.Padmamma w/o.Chinna Mallaiah	77/1	1-10	0-18	0-32

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for cultivation has been brought under cultivation and is also being cultivated by the respective writ petitioners. At the first instance, the State Administration should have realized that the land in question is not altogether fit for cultivation and consequently they should not have assigned pattas in favour of the writ petitioners. Having thus granted the pattas and if the writ petitioners by their hard labour have already brought the land under cultivation, they cannot be penalized for not brining the rest of the land which is otherwise incapable of being cultivated, therefore, the orders passed by the second respondent canceling the Laoni pattas granted in favour of the writ petitioners does not have a valid or subsisting basis for one to come to a conclusion that the pattas granted in favour of the writ petitioners deserve to be cancelled at all. Obviously, no thought has been spared by the second respondent before passing the impugned order cancelling the pattas granted in favour of the writ petitioners as to the impossible nature of the land and it's terrain and therefore, care should have been taken before cancelling pattas granted in favour of the writ petitioners.

3. The learned Government Pleader for Revenue had raised an objection about the maintainability of writ petition in the face of availability of effective and efficacious alternative remedies in the form of an appeal and a further revision. In the normal circumstances, such an objection would have prevented this court from entertaining the writ petitions, but availability of an alternative remedy is devised as a rule of prudence by courts not by way of an absolute bar from entertaining the jurisdiction, which it had otherwise. It is also based upon the nature of the composition of the Appellate Forum. In cases where the illegality is patent and visible, the High Court should not shirk it's responsibility to exercise it's jurisdiction and therefore, I am not inclined to dismiss the writ petition only on the ground of availability of an alternative remedy, all the more so, because there

is no further necessity to establish any other questions of fact to enable one to arrive at a conclusion in the matter.

4. For the reasons set out above, I allow the writ petition quashing the impugned order, but however, without costs.

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NOOTY RAMAMOHANA RAO,J

07-02-2007
Stp